

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-8147 of 2023
Date of Decision: 16.08.2023

Daljit Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Nandan Jindal, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash FIR No. 008 dated 01.02.2023 under Section 174-A IPC registered at Police Station Mehal Kalan, District Barnala alongwith all the proceedings arising therefrom.

2. Learned counsel for the petitioner contended that the petitioner had been falsely implicated in case FIR No. 39 dated 24.06.2019 under Sections 447 and 380 IPC, which was registered at the instance of Surinder Singh son of Kartar Singh. After the registration of the FIR, the petitioner was admitted to anticipatory bail, vide order dated 25.07.2019 (Annexure P-3) and the petitioner joined the investigation. After completion of the investigation, a report under Section 173 Cr.P.C. was presented before the learned trial Court and the petitioner continued to attend the date of hearing.

3. During the pendency of the trial, Jagmohan Kaur, younger sister of the petitioner, who was residing in Canada alongwith her husband and children had a matrimonial discord with her husband. To settle the said dispute, the petitioner had to visit Canada twice, i.e., from 14.11.2019 to 03.03.2020 and 21.06.2022 to 08.12.2022. Since, the petitioner could not appear before the trial Court, non-bailable warrants were issued against him and the concerned official of Police Station Mehal Kalan visited the house of the petitioner and submitted the report that the petitioner was away to Canada and the warrants of arrest could not be executed. Vide order dated 25.08.2022, the Court directed that the proclamation under Section 82 Cr.P.C. be issued against the present petitioner, On 02.12.2022, despite the report that the petitioner was out of the country, without following the due legal procedure as explained in Section 82 Cr.P.C., the petitioner was declared as proclaimed offender.

4. Aggrieved against the order whereby the petitioner was declared as a proclaimed offender, the petitioner approached this Court by way of filing of CRM M-5143-2023 with a prayer to quash the order dated 02.12.2022 passed by the Chief Judicial Magistrate, Barnala and vide order dated 01.02.2023 (Annexure P-6), this Court quashed the order dated 02.12.2022, whereby, the petitioner was declared as a proclaimed offender. Learned counsel further contends that on the same day, when the matter was being heard by this Court,

the present FIR was registered under Section 174-A IPC, which was primarily based on the order dated 02.12.2022 passed by the Chief Judicial Magistrate, Barnala, which already stood quashed. Learned counsel further contends that even the concerned official from the police station was present during the course of hearing before this Court, still on the same day, i.e. on 01.02.2023 at about 01.50 p.m., the FIR (Annexure P-1) was ordered to be registered in the same police station, which is misuse of the process of the law.

5. A status report was filed by way of an affidavit of the Deputy Superintendent of Police, Mehal Kalan, District Barnala and the status report filed by the said official seems to be evasive and no specific reply was submitted to the averments made by the present petitioner.

6. I have heard the learned counsel for the parties and perused the record.

7. It is apparent from the record that vide order dated 02.12.2022 (Annexure P-5), the petitioner was ordered to be declared as proclaimed offender by the Court of Chief Judicial Magistrate, Barnala. The petitioner laid challenge to this order before this Court by way of invoking the extra ordinary jurisdiction of this Court by filing CRM M-5143-2023 and vide order dated 01.02.2023 (Annexure P-6), this Court quashed the order dated 02.12.2022 (Annexure P-5) passed by the Court of Chief Judicial Magistrate, Barnala. However, on the same day, i.e. on 01.02.2023 itself, the

present FIR under Section 174-A IPC was ordered to be registered in the same police station, which was only based on the order dated 02.12.2022 passed by the Chief Judicial Magistrate, Barnala. Once, the very basis and foundation of the present FIR stands quashed, the continuation of the proceedings emanating from the FIR (Annexure P-1) are apparently misuse of process of law.

8. Whenever an accused comes before this Court by invoking either the inherent powers under Section 482 Cr.P.C., or extra ordinary jurisdiction under Article 226 of the Constitution of India to get the FIR or criminal proceedings quashed especially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wrecking vengeance, then in such circumstances, the Court has a duty to look into the FIR with more care and a little more closely. It will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purposes of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owns a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, then due care and circumspection tried to read in between the lines. The Court while exercising its inherent powers under Section 482 Cr.P.C., need not restrict itself to the stage of a case, but is empowered to take into account the overall circumstances leading to initiation/registration of

the case as well as material collected during the course of investigation. It is in the background of such circumstances, it is apparent that the registration of the present FIR is an instrument of misuse of process of law.

9. As a result of above discussion, the present petition succeeds and is hereby allowed. FIR No. 008 dated 01.02.2023 under Section 174-A IPC registered at Police Station Mehal Kalan, District Barnala and all consequential proceedings emanating from the said FIR are ordered to be quashed.

16.08.2023

amit rana

(N.S.SHEKHAWAT)**JUDGE**

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No